

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PETER A. HOCHSTEIN, et al,
individuals,

Plaintiff,

CASE NO. 04-73071

v.

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

MICROSOFT CORPORATION, and
SONY COMPUTER ENTERTAINMENT
AMERICA, INC.,

Defendant,

ORDER OF APPOINTMENT AND REFERENCE TO
PROFESSOR PAUL JANICKE AS SPECIAL MASTER PURSUANT TO F. R. CIV. P. 53

This is a complex patent case. The parties have stipulated to the appointment of Professor Paul Janicke as a special master to report and recommend to the Court the disposition of the summary judgment motions.

Under FED. R. CIV. P. 53, the Court may appoint a special master to, *inter alia*, “perform duties consented to by the parties,” FED. R. CIV. P. 53(A)(1)(A), and to “address pretrial . . . matters that cannot be addressed effectively and timely by an available district judge or magistrate judge of the district.” FED. R. CIV. P. 53(a)(1)(C).

Accordingly, it is ordered that:

1. The Summary Judgment Motions are referred to Professor Paul Janicke, to report and recommend in writing to the Court their proper disposition. The Court also refers the

contingent damages-related item as to Sony with regard to the scope of damages, e.g. games sold with headsets for voice communications.

2. The special master has conferred with the parties and arranged a hearing for Friday, December 8, 2006 in my courtroom.
3. Copies of papers filed with each special master also shall be filed simultaneously with the Clerk of the Court and served pursuant to applicable federal rules. A copy shall be simultaneously sent to the Court. Forwarding letters or informal communications need not be filed.
4. The special master shall have the right to communicate ex parte with the Court.
5. The special master shall complete his work and issue his reports and recommendations within 120 days, unless, on application to the Court, such time is extended.
6. (a) Any petition containing objections for review by the Court of the recommendations of the special master shall be submitted in writing within 20 days of receipt of the special master's report.

(b) Review of the report and recommendations of the references under ¶1 of this order shall be *de novo*.
7. The special master may use law clerks or paralegals at his discretion and shall keep detailed records of time and expenses. The special master shall render detailed monthly bills for fees and expenses at the same rates ordinarily charged clients for services, and such bills shall be paid promptly as follows: fifty percent (50 %) by the plaintiff and fifty percent (50 %) by the defendants. The monthly bills shall be submitted directly to counsel for these parties who shall take responsibility for prompt payment by their

respective clients.

8. Objections, if any, to this order shall be filed within seven (7) days.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: November 15, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on November 15, 2006.

s/Denise Goodine
Case Manager